

Minutes
Catawba County Board of Commissioners
Special Session, Monday, October 2, 2006, 7:30 a.m.

Board of Commissioners

Special Session – Work Session to discuss UDO Issues

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The Catawba County Board of Commissioners met in Special Session on Monday, October 2, 2006 at 7:30 a.m. in the 1924 Courthouse, Robert E. Hibbitts Meeting Room, 30 North College Avenue, Newton, North Carolina. The purpose of this Special Session was to conduct a work session to discuss issues related to the proposed Unified Development Ordinance. This work session commenced at 7:30 a.m. and recessed at 9:20 a.m. so that the Regular Board of Commissioners Meeting could be conducted. The work session reconvened at 10:15 a.m.

Present were Chair Katherine W. Barnes, Vice-Chair Dan Hunsucker and Commissioners Glenn E. Barger, Lynn M. Lail and Barbara G. Beatty.

Also present were County Manager J. Thomas Lundy, Assistant County Manager Joellen Daley, Assistant County Manager Lee Worsley, Interim County Attorney Debra Bechtel, Planning Director Jacky Eubanks, Senior Planner Mary George and County Clerk Barbara E. Morris.

1. Chair Katherine W. Barnes called the meeting to order at 7:37 a.m.

Chair Barnes asked County Manager J. Thomas Lundy to start the meeting. He provided an overview of information for the work session. He stated the staff had two options before the Board – the two acre option which was proposed in the UDO with a series of flexible choices that developers and landowners could make to increase density and a one acre option with higher development standards. Mr. Lundy said in either case the intent was to strike a balance on stewardship – taking the long term view of trying to balance growth, preserving the rural character recommended by the small area plans while also offering opportunities for development to occur. The developers and landowners said they wanted options to be able to develop property and to make sure there was affordable housing and economic growth. Both the proposed options try to strike that balance. Mr. Lundy said the difference between the two was the pace at which development occurred and how the County looked as it developed.

Mr. Lundy presented the options as follows:

A. **Option 1** : 2 acre zoning with tools for higher density (public utilities and planned developments) at developers and landowners' option.

He clarified:

- There are 188,671 acres of land in the County under the Board of Commissioners' zoning control.
- This 2 acre zoning under the proposed UDO would apply to 48% (91,393 acres) of those 188,671 acres, because the UDO proposed higher density (less than 2 acres) in the St. Stephens/Oxford area, as well as around city boundaries and in the Sherrills Ford area. This means that 52% of the land (97,278 acres) is proposed for lots less than 2 acres under the proposed UDO.

He clarified that developers and landowners have options to further develop the land in 48% of the County to achieve higher density:

- The existing Catawba County Water and Sewer ordinance applies and requires developers to extend and hook up to public utilities if they are developing 26-50 units within ½ mile of public water and sewer. This required hook-up would make this land eligible for 1/3 acre to 1 acre zoning and result in an increase to 64% (120,353 acres) of the land in the County available for density at less than 2 acres.
- The existing Catawba County Water and Sewer Ordinance further requires developers to extend and hook up to public utilities if they are developing 101 to 200 units within 1 mile of public water and sewer. This required hook-up would make this land eligible for 1/3 to 1 acre zoning and result in an increase to 75% (140,607 acres) of the land in the County available for density at less than 2 acres.
- Additionally, staff was proposing planned developments of 50 acres or more if public utilities (outside of the ½ mile utility corridor) are not available, resulting in land that could be zoned for

1 acre lots with negotiated amenities (public open space, trails, bicycle paths, conservation easements, traffic improvements, buffering, connectivity). This could increase to 77% (145,102 acres) of the 188,671 acres of land in the County available for density at less than 2 acres.

The staff thus feels that tools are available under the UDO and the County's Water and Sewer Ordinance to allow developers and landowners to develop at higher density.

Commissioners questioned the development along corridors and overlay districts and the effect on the rural character and Planning Director Jacky Eubanks pointed out that clustered developments with 100 foot setbacks and buffering (with natural growth and a combination of existing vegetation and additional plantings) from the roads so the density was not so apparent from the roadway was recommended to preserve the rural character.

- B. **Option 2** – (would result in faster pace development – meeting small area plan interests for preservation of rural character) – This faster pace of development would put additional pressure on public services, such as libraries, public safety, parks/recreation and schools with the possibility of later releasing school capacity and impact fees. (A study is now being conducted on impact fees as requested by Board at its Spring Retreat – study due to be complete in January or February.)

If this Board chose one acre zoning, staff recommended –

Balancing the more rapid development with preserving rural character with additional standards for subdivisions of 25 lots or more:

- 100 foot setback vs. 30 foot setback in current ordinance
- Mandatory clustering
- Provide buffer along road frontage – 30 feet in width
- No clear cutting
- Stream buffers – 30 feet on each side to remain in natural state
- Require tree planting – 5 deciduous trees minimum
- Ensure low level lighting to reduce light pollution
- Turn lanes along road frontage – where appropriate

Require Planned Developments for subdivisions of 50 lots or more

- Negotiate amenities for public open space, trails, bicycle paths, conservation easements, traffic improvements, buffering and address connectivity (these would not apply to individual lots or family subdivisions)

*Family Subdivisions – regardless of Option 1 or 2 – allow family subdivisions to have one acre lots for the first 3 lots – The average number of additional lots created in family subdivisions over the last 8 years was 1.35 (438 additional lots created in 325 family subdivisions) After the 3rd lot, major subdivision restrictions would apply. In the current ordinance, there is a tier which allows five family subdivision lots.

Commissioners clarified that clear cutting was not addressed in the first, two-acre minimum option and questioned why the proposed standards in Option 2 started at subdivisions of 25 lots or more – why not any number subdivision? Mr. Lundy explained that the staff had looked back at average size of subdivisions over the last 7-8 years and there have been about 30 lots (only 6% were over 50 lots in size – and only 1 was over 100 lots) – but he indicated the Board could set that number at whatever level they desired. Commissioner Barger confirmed that these standards would not apply to individual lots or family subdivisions.

Staff still recommended the 2 acre option with the density tools recommended and allowance for planned developments with amenities. This would give the County more opportunity to direct the growth where there are utilities and preserve the rural character as recommended by the small area plans. It also lessens the impact on the public services. Staff further recommended going to one acre lots in family subdivisions of up to 3 lots.

Commissioner Lail had asked for the number of subdivisions approved since 1999 and where they were located. She indicated that at least 90% of those were in the Sherrills Ford area so it appeared the challenge of rapid growth was in the Sherrills Ford area but not occurring in other areas of the County. Chair Barnes pointed out that the County still had current school needs costs at \$90 million. Mr. Lundy said

a lot of the growth during this period of time was impacted by the school capacity caps and where there was the ability to develop. Chair Barnes noted that the issue of having to build more schools would happen either way. It was questioned if the two acre minimum option would control school growth where it was actually needed. Proposed water and sewer extensions would also affect density and would need to be considered – and when these extensions were in place, would it be a matter of right to reduce the lot sizes without a rezoning before the Board of Commissioners in areas with water and sewer? This would require special legislation to defer the authority from the Board to a planning agency (as in Cabarras County) but either way, it would still need to be heard by a planning authority.

It was noted that there are almost 100,000 acres in two acre zoning for development. There are approximately 750 parcels of 50 acres or more countywide. This would mean 100,000 lots in one acre zoning which would affect school capacity. The option of the County purchasing large tracts of land for rural preservation was brought up and using grants to do so. The land proposed for two acre minimums is not around cities but is in each small area plan district with the exception of the St. Stephens/Oxford area.

The Planned Development option was discussed as a positive alternative which would bring people to the table to discuss the end result and help the County address issues such as open space, buffering, connectivity and transportation issues. It was pointed out the thresholds for additional standards for subdivisions could be changed for more control (i.e. lower than 25 lots in the first phase.) It was suggested if standards were too high or too restrictive, they could affect the free market – developers would have to make money to build and would they be building affordable housing. When questioned about environmental safety issues, Mr. Eubanks indicated that one acre would in most cases sustain a well and septic. Vice-Chair Hunsucker said he was more inclined to go along with the one-acre minimum based on what he had heard thus far.

Road standards and interconnectivity were discussed and the need for the ordinance to address this issue to avoid problems that occurred like in Fairway Acres and Fairway Farms. Chair Barnes questioned what type of situation was going to be created when the DOT was not taking over the roads with clustering and interconnectivity. Senior Planner Mary George pointed out that when a subdivision is created under the UDO, they would be required to improve the road to the property line so when the next developer came in next door, they would connect to the already paved road. The Fairway Acres and Fairway Farms problem occurred because this requirement was not in place and right-of-ways were recorded but they were never constructed. Chair Barnes raised the issue of when these private roads are used more than the state roads and the private owner was required to maintain the road with increased frequency and expense because it is being used and deteriorating more than the state road. Interim County Attorney Bechtel said this question had been raised by the private owners. Mr. Eubanks noted this was a problem but it currently rests on the developer and the owner and the homeowners associations – until such time, if ever, the state takes over the road. Commissioner Beatty questioned right-of-ways. Attorney Bechtel said they were typically reviewed by staff and the DOT reviews the plats to ensure they are sufficient.

The affect of two acre minimums on the tax base was also raised by Commissioner Lail – did it diminish the value of lots. If so this needed to be considered. Also, the property may be less marketable if developers are unwilling to develop on two acre lots. Again, the issue of affordable housing was discussed with the two acre minimum and if standards were too restrictive or too numerous, how they would affect affordable housing.

The discussions returned to the long term results – with two acre zoning there could be permissible uses and adjustments but with one acre zoning it would be more a matter of right and the developed land could not be taken back. The issue of maintaining rural character and the ability to not clog the roads was raised. It was agreed that clear cutting restrictions were an important standard and the planting of 5 deciduous trees should be required. But the affect of standards on affordability also had to be considered.

Several commissioners stated they were tending toward the second of the two options. Commissioner Lail said she was bothered that no members of the small area plans had come forward to defend the two-acre minimums. Chair Barnes said a number of those people as well as other citizens spoke to her personally in support of the 2 acre minimum. Commissioner Barger stated he agreed with Vice-Chair Hunsucker and was tending toward the second option of one acre minimum lot sizes unless there were health and safety issues to prevent it. Chair Barnes pointed out the map that depicted septic tank failures showed that the

failures occurred in subdivisions that were old and were on ½ acre lots or less. Mr. Lundy asked both Commissioners Hunsucker and Barger, based on their statements regarding tending toward the one-acre option, about how they felt about higher development standards. The Commissioners felt the additional development standards were good but needed to be consistent between phases of development. Also, maybe lower thresholds should be considered so that consistency could be maintained – the developments should look the same (in particular as it relates to setbacks) as you drive down the road. It was suggested ranking some of the standards – which are of the most importance – and the visual aspects to keep the rural character of the County was a high priority. Setbacks, berms and preservation of vistas were considered and discussed. Chair Barnes said she was hearing there should be visual standards that kept the rural look out in the County and with varying setbacks, that standard would not be met. Vice-Chair Hunsucker stated what was done inside the development was not going to be as disruptive as what was required on the major roads – so, what was worked out for inside the development was secondary to him as far as visual standards. Vice-Chair Hunsucker asked the rest of the Board if they thought the development community would accept the trade-off of one acre with additional standards (ie. 100 setbacks) vs. the two acre minimum. Commissioner Barger questioned whether a 100 foot setback was reasonable on a one acre lot – Vice-Chair Hunsucker said he thought it could be a problem when you don't have a lot of acreage and you are taking so much off the front side of the lot. Chair Barnes said she understood as it was written now, a berm could be created and Commissioner Lail said with appropriate buffering, something like a berm, that a setback of 100 feet wouldn't always be necessary. Assistant County Manager Joellen Daley said a lot would depend on the vista – how far down the road could you see?

Vice-Chair Hunsucker asked Mr. Lundy for clarification on the standards at issue for a development of 25 or more lots – and Mr. Lundy referred to the list given at the start of the meeting.

Mr. Lundy clarified that what he was hearing from the commissioners was that the standards should include less footage for setbacks (something between 30 – 100 feet – realizing they are not going to have perfect consistency – but as much consistency as possible) higher buffering and for appearance standards – tradeoffs, etc. but with the goal of consistency of appearance. Threshold limits for subdivisions may need to be lowered (until it gets to 50 lots, the Board would not hear it – it would be a matter of right with whatever base standards the Board wanted in place.

Chair Barnes asked about density bonuses – Mr. Lundy said that there were density bonuses for affordable housing and also bonuses for open space that would apply in either of the options that had been presented to the Board. Commissioner Lail stressed that more of the burden should be placed on the private developer to increase/improve the standards. A chart was requested on the different options that had been presented, the various proposed standards and density bonuses.

Chair Barnes summarized that she had heard there should be more discussion regarding one acre minimums with higher development standards and the goal of maintaining the rural character of the County. She also heard there should be attempts for the County to purchase more land for rural preservation through park grant opportunities. She said that the Board believed there should be density bonuses to direct affordable housing. She noted stream buffers were not discussed. Vice-Chair Hunsucker clarified that the proposed buffer was 30 feet. Chair Barnes stated she thought that was a reasonable buffer in subdivisions where vegetation could not be cleared in that buffer. Something could be written in for nuisance vegetation such as kutzu or poison ivy. 30 foot is currently the state standard for buffers in protected watersheds. The stream buffer would also be credit for the open space requirement for a development (typical amount open space required in a non-clustered subdivision is 2500 sq. ft. per lot – a clustered subdivision would require 30%). This open space would also include the 30 foot setbacks in the calculations.

Chair Barnes asked if there was a reason to resume the work session after the regular meeting. It was agreed that more discussion was required on the development standards.

Mr. Lundy repeated he had heard thus far that if the Board went with the one acre option, members were comfortable with higher development standards and as much consistency as possible (realizing that it will not be 100%) ; that the 100 foot setback vs. something between 30 and 100 needed to be looked at as well as other options for flexibility such as buffering, berms; that thresholds for subdivisions of 25 lots or less should be considered; that stream buffers should be clarified to include nuisance clearing and Commissioner Beatty asked for a chart. Vice-Chair Hunsucker said he did not know how to answer the

question regarding 25 lots or less because he did not want the Board in a situation where it did not have any say in developments lower than 25 lots – but then again didn't want the Board to have to spend so much time on approving plans. Mr. Lundy clarified that the standards would be in place for developments under 50 lots which were a matter of right and the Board would not hear it unless it was 50 or over and was a then a planned development. Commissioner Lail asked for clarification on turn lanes – did the DOT require it or did the County. Mr. Eubanks said that it would be best for the County to require it and the DOT would back that requirement. Ms. George asked for clarification on the requirements on family subdivisions and Chair Barnes said they would revisit that after the regular meeting.

Chair Barnes recessed the work session at 9:20 a.m. so that the regular meeting could be conducted.

The work session resumed at 10:15 a.m.

Chair Barnes asked Mr. Eubanks to think about any areas where the staff needed clarification. She went on to ask about clustered subdivisions and if they would reduce development costs. Mr. Eubanks said that would be the result. Commissioner Beatty asked if the standards being discussed would apply to mobile home subdivisions in overlay districts, and this was confirmed.

It was noted that there were very few subdivisions under the 25 lot threshold. Chair Barnes asked to be taken through a typical phase development under option two.

Ms. George used a 100 lot subdivision as an example – a developer would apply for a preliminary approval which would have to meet the base standards on the preliminary plat. It would be a rezoning so it would go to the Board – after the Planning Board had made their recommendation – as part of the process. In addition to the base standards, they would negotiate the planned development standards – i.e. turn lanes, etc., additional setbacks, buffers, - and as part of the rezoning the Board could determine additional standards. After rezoning, the developer would go through the Subdivision Review Board for technical approval and they could start to build the roads. Ms. George clarified that a planned development could be conditional use zoning but it doesn't have to be. Mr. Eubanks said this would apply more in cases where there were multiple types of housing in a planned development – condos, patio homes, single family homes.

Ms. Daley said subdivision phasing would be part of that original subdivision discussion - at what stage do sections of roads go in; at what stage does the swimming pool go in – the Board would approve the schedule.

Chair Barnes and Commissioner Lail asked that family subdivisions be discussed. It was clarified that a family subdivision would be three lots – including the parent lot. They can be one acre or greater. The new standard of three lots is closer to the norm across the state. The tiered family subdivision standards had been in place for 10 years and only one person went to the second tier. This was part of the reasoning behind eliminating the second tier in the UDO. On the plat, the owners are required to indicate the property is a family subdivision and limited to family members – the definition in the UDO has been changed to now include siblings as well as children and grandchildren. Most counties have provisions for family subdivisions but they require the lot sizes to be the same for any type of subdivision.

Commissioner Beatty asked how this affected the development that was being proposed in Sherrills Ford– Mr. Eubanks said he thought it would not have any impact at this time – those developments fell under the conditional use zoning. Mr. Eubanks asked what the staff should focus on, – narrowing the standards applying to option two?

It was questioned whether the staff should go back to the small area plan committees to discuss the options but it was decided not to do so since it was now the Board's decision to finalize the UDO. St. Stephen/Oxford was the only small area plan that didn't recommend two acre minimums. The main recommendation from these plans was the preservation of the rural character and that was already a priority on the Board's list of things to accomplish.

Mr. Lundy pointed out to the Board that 52% of the area that the Board was zoning was where people could already build on less than two acres – it may not be where they specifically wanted to live – but there was a lot of land available for people to build on less than two acres.

Commissioner Beatty suggested that the higher development standards apply to one acre lots County-wide, not just the proposed one acre areas of the map. The Board said they thought this would be a good idea. Ms. Daley asked if the standards could be connected to lot size – apply to one acre or greater as a matter of right – regardless if they had utilities for consistency. Mr. Lundy asked why these standards shouldn't apply to ½ acre – why not everywhere in the County – unless there was some reason to back off the requirements – i.e. lighting requirements near the city. Ms. George pointed out the setbacks and buffers could be a problem on small lots – leaving no room to build. The staff was asked to prepare recommendations for having the standards apply to smaller lot sizes.

Chair Barnes said she was concerned about the tree planting requirement – and that the size requirement of the trees could be too expensive for some homeowners.

Chair Barnes said she wasn't sure that clarification was achieved. Mr. Lundy said he did feel they had clarified things and that Commissioners Beatty's suggestion of County-wide standards was good. Chair Barnes said the more uniformed the County got with standards, the easier it was for people to understand zoning and its requirements.

Commissioner Beatty said she wanted to clarify that there was veterinary care available on HWY 150. Ms. George said staff would be proposing special use permit standards as part of the cottage business discussion.

Commissioner Barger asked if staff would look at expanding rural preservation corridors. Chair Barnes said the public had said they liked what they saw now when they drove through the County and that addressed the corridor vista. Ms. Daley pointed out the mandatory clustering would help achieve this and preserve open space.

Mr. Lundy said the work session had been very helpful in hearing the Commissioners talk about the options and get some direction. He stated it would only be helpful though if the Board stuck with its decision. No matter what they did, someone was not going to like it. Vice-Chair Hunsucker said they were trying to mesh what the small area plans wanted and citizens wanted. Mr. Lundy said he expected some resistance from the development community because of the higher standards. Commissioner Barger said he wanted time to think about the standards to ensure they were reasonable and made sense. Vice-Chair Hunsucker said he thought he could go back to the agricultural community and say the Board discussed one acre lot sizes with higher development standards and he had something defensible.

Mr. Lundy said staff would start working on more definition for the standards and the requested chart. He asked that if Board members had any concerns, to please voice them sooner rather than later. Staff would try to follow the same process they used in preparation for this work session when they addressed cottage industries and manufactured housing and the identification of the issues.

14. Adjournment. Chair Barnes adjourned the meeting at 11:34 a.m.

Katherine W. Barnes, Chair
Catawba County Board of Commissioners

Barbara E. Morris, County Clerk